

Hon. Shelley C. Chapman
Bankruptcy Judge

3. The Movant's proof of claim, if allowed, will not unduly prejudice Debtor and the delay in filing Movant's proof of claim will not substantially impact the judicial proceedings in either this Bankruptcy Court or the related action in the Eighth Judicial District Court of Clark County, Nevada ("the state court"), in which Debtor is already a named defendant and no final state court judgment has yet been rendered. The Movant delayed in filing the proof of claim to this motion as a result of excusable neglect caused by the following facts:

4. On June 19, 2019, Movant commenced state court action against Debtor and co-defendants as a defense to the foreclosure sale recorded against his real property. Movant challenged the deed/note originated by Debtor and asserted claims of (i) wrongful foreclosure; (ii) quiet title; (iii) declaratory relief; (iv) slander of title; (v) intentional infliction of emotional distress; and (vi) fraud. On or about July 05, 2019, personal service of process was effectuated upon Debtor as a defendant in the state court.

5. On September 04, 2019, Debtor's bankruptcy counsel, Garrett A. Fail, Esq. of the law firm of Weil, Gotshal & Manges, LLP, mailed to Movant notice of the Bar Date of September 22, 2009 and the applicability of the automatic stay of section §362 to the pending state court proceedings. Movant, who received notice for the *first time*, ten (10) years after the Bar Date, could not have reasonably known that an adverse claim jeopardizing title to real property, involving Debtor, would arise after the bar date.

6. On September 19, 2019, Movant, in good faith, immediately responded to Mr. Fail by way of certified mail/return receipt requested and also via email, in an attempt to reach stipulation for relief from the automatic stay. The next day, without first conferring with Movant, Debtor retained counsel for the state court action and filed a Notice of Bankruptcy in the state court.

7. On October 01, 2019, the state court stayed proceedings against Debtor pending relief of the automatic stay from this Court. Currently pending on the state court docket are the defendants' motion to dismiss; Movant's countermotion for summary judgment; and a minute order directing in relevant part for defendants to produce specific discovery related to the mortgage originated by Debtor.

8. On October 19, 2019, Movant, via email, requested Debtor's insurance policy information from Debtor's state court counsel. Movant has received no response.

9. On October 19, 2019, Movant filed a state court pleading that indicated in relevant part that he did not wish to disturb the proceedings of the Bankruptcy Court. Movant has shifted his position in state court proceedings and now seeks damages solely from Debtor's insurance coverage. In addition, Movant seeks a determination of title to a single asset real estate in which Debtor alleged it sold or assigned its purported interest to co-defendants in the state court action. Accordingly, no equity remains for the Debtor's estate and the real property is not necessary to an effective reorganization. Therefore, the bankruptcy estate will not be affected by Movant's state court claims.

10. On October 24, 2019, Movant filed the initial proof of claim against BNC Mortgage LLC. Certainly other creditors cannot be prejudiced if no previous proof of claim has been filed. Movant indicated that he was a secured creditor and selected "zero" for amount of damages because, the amount of damages, if any, that will be awarded to the Movant against the Debtor in the state court action is uncertain and expected to be satisfied with Debtor's insurance coverage. Accordingly, the amount claimed in the Movant's proof of claim is unknown.

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CONCLUSION

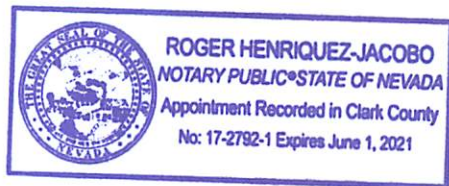
Based on the above, Movant respectfully requests an Order granting permission to accept his proof of claim attached hereto as Exhibit A.

Dated: Clark County, Nevada
October 31, 2019

By: 
TYRONE KEITH ARMSTRONG
3713 Brentcove Drive
North Las Vegas, Nevada 89032
(725) 212-1041
performanceoneautomotive@gmail.com
Movant Pro Se

STATE OF NEVADA)
) ss.
COUNTY OF CLARK)

Signed and affirmed to before me on this 31st day of October, 2019, by Tyrone Keith Armstrong.




NOTARY PUBLIC

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 31st day of October, 2019, I served a true and correct copy of the foregoing *Affirmation in Support of Motion to Take Leave to File Late Proof of Claim* and *Proof of Claim (Official Form 410)* via U.S. Mail, first class postage prepaid, addressed to the following:

Jacqueline Marcus, Esq.
Garrett A. Fail, Esq.
Weil Gotshal & Manges, LLP
767 5th Avenue
New York, NY 10153
USPS certified mail tracking: 7019 0160 0001 0602 9736

BNC Mortgage LLC
(f/k/a BNC Mortgage, Inc.)
1901 Main Street
Irvine, CA 92624
USPS certified mail tracking: 7019 0160 0001 0602 9743

United States Trustee
201 Varick Street, Room 1006
New York, NY 10014
USPS certified mail tracking: 7019 0160 0001 0602 9750

Epiq Corporate Restructuring, LLC
777 Third Avenue, 12th Floor
New York, NY 10017
USPS certified mail tracking: 7019 0160 0001 0602 9767

By: /s/ Tyrone Keith Armstrong
TYRONE KEITH ARMSTRONG
3713 Brentcove Drive
North Las Vegas, Nevada 89032
Telephone: (725) 212-1041
Email: performanceoneautomotive@gmail.com
Movant Pro Se

EXHIBIT “A”

Fill in this information to identify the case:

Debtor 1 BNC Mortgage LLC
Debtor 2 _____
(Spouse, if filing) _____
United States Bankruptcy Court Southern District of New York
Case number: 09-10137

FILED
U.S. Bankruptcy Court
Southern District of New York
10/24/2019
Vito Genna, Clerk

Official Form 410
Proof of Claim

04/19

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Do not use this form to make a request for payment of an administrative expense. Make such a request according to 11 U.S.C. § 503.

Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. Do not send original documents; they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Fill in all the information about the claim as of the date the case was filed. That date is on the notice of bankruptcy (Form 309) that you received.

Part 1: Identify the Claim

1. Who is the current creditor?	<u>Tyrone Keith Armstrong</u> Name of the current creditor (the person or entity to be paid for this claim) Other names the creditor used with the debtor _____	
2. Has this claim been acquired from someone else?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. From whom? _____	
3. Where should notices and payments to the creditor be sent? Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)	Where should notices to the creditor be sent? <u>Tyrone Keith Armstrong</u> Name <u>3713 Brentcove Drive</u> <u>North Las Vegas, NV 89032</u> Contact phone <u>725-212-1041</u> Contact email <u>performanceoneautomotive@gmail.com</u> Uniform claim identifier for electronic payments in chapter 13 (if you use one): _____	Where should payments to the creditor be sent? (if different) Name Contact phone _____ Contact email _____
4. Does this claim amend one already filed?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Claim number on court claims registry (if known) _____ Filed on _____ MM/DD/YYYY	
5. Do you know if anyone else has filed a proof of claim for this claim?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Who made the earlier filing? _____	

Part 2: Give Information About the Claim as of the Date the Case Was Filed

6. Do you have any number you use to identify the debtor?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: _____
7. How much is the claim?	<div>\$ 0.00</div> <div>Does this amount include interest or other charges? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).</div>
8. What is the basis of the claim?	<p>Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card. Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c). Limit disclosing information that is entitled to privacy, such as healthcare information.</p> <p>Debtor issued a void mortgage</p>
9. Is all or part of the claim secured?	<div><input type="checkbox"/> No <input checked="" type="checkbox"/> Yes. The claim is secured by a lien on property.</div> <div>Nature of property: <input checked="" type="checkbox"/> Real estate. If the claim is secured by the debtor's principal residence, file a <i>Mortgage Proof of Claim Attachment</i> (Official Form 410-A) with this <i>Proof of Claim</i>. <input type="checkbox"/> Motor vehicle <input checked="" type="checkbox"/> Other. Describe: <u>Quiet title and related claims</u></div> <div>Basis for perfection: <u>Satisfied mortgage</u></div> <div>Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.)</div> <div>Value of property: \$ _____</div> <div>Amount of the claim that is secured: \$ 0.00</div> <div>Amount of the claim that is unsecured: \$ 0.00 (The sum of the secured and unsecured amounts should match the amount in line 7.)</div> <div>Amount necessary to cure any default as of the date of the petition: \$ 0.00</div> <div>Annual Interest Rate (when case was filed) _____ % <input checked="" type="checkbox"/> Fixed <input type="checkbox"/> Variable</div>
10. Is this claim based on a lease?	<div><input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Amount necessary to cure any default as of the date of the petition. \$ _____</div>
11. Is this claim subject to a right of setoff?	<div><input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Identify the property: _____</div>

12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)?	<input checked="" type="checkbox"/> No	Amount entitled to priority
	<input type="checkbox"/> Yes. Check all that apply:	
A claim may be partly priority and partly nonpriority. For example, in some categories, the law limits the amount entitled to priority.	<input type="checkbox"/> Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).	\$
	<input type="checkbox"/> Up to \$3,025* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7).	\$
	<input type="checkbox"/> Wages, salaries, or commissions (up to \$13,650*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4).	\$
	<input type="checkbox"/> Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8).	\$
	<input type="checkbox"/> Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5).	\$
	<input type="checkbox"/> Other. Specify subsection of 11 U.S.C. § 507(a)() that applies	\$
* Amounts are subject to adjustment on 4/1/22 and every 3 years after that for cases begun on or after the date of adjustment.		

Part 3: Sign Below

The person completing this proof of claim must sign and date it. FRBP 9011(b).

If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157 and 3571.

Check the appropriate box:

- ☒ I am the creditor.
☐ I am the creditor's attorney or authorized agent.
☐ I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.
☐ I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

I understand that an authorized signature on this Proof of Claim serves as an acknowledgment that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this Proof of Claim and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on date 10/24/2019
MM / DD / YYYY

/s/ Tyrone Keith Armstrong
Signature

Print the name of the person who is completing and signing this claim:

Name Tyrone Keith Armstrong

Title Movant Pro Se
First name Middle name Last name

Company _____

Address 3713 Brentcove Drive
Identify the corporate servicer as the company if the authorized agent is a servicer

North Las Vegas, NV 89032
Number Street

City State ZIP Code

Contact phone 725-212-1041 Email performanceoneautomotive@gmail.com